



Reprinted
March 21, 2007

ENGROSSED HOUSE BILL No. 1731

DIGEST OF HB 1731 (Updated March 20, 2007 2:49 pm - DI 14)

Citations Affected: IC 5-22; IC 36-1.

Synopsis: Public purchasing. Increases the thresholds for small purchases made by the state and governmental bodies. Provides that all purchasing agencies may award a contract under the request for proposal provisions of the law. Removes a provision that requires that when conducting discussions with an offeror, information derived from a proposal submitted by a competing offeror may not be disclosed. Extends to all purchasing agents, and not just executive branch agencies, the ability to discuss competing offers. Provides that governmental entities may make purchases from other governmental entities, or under another governmental entity's written contract and, in certain circumstances, with a nonprofit entity if the requirements of the public purchasing statutes are met.

Effective: July 1, 2007.

GiaQuinta, Cheatham

(SENATE SPONSORS — LANANE, LAWSON C)

January 26, 2007, read first time and referred to Committee on Government and Regulatory Reform.

February 19, 2007, amended, reported — Do Pass.

February 23, 2007, read second time, amended, ordered engrossed.

February 26, 2007, engrossed. Read third time, passed. Yeas 98, nays 0.

SENATE ACTION

March 5, 2007, read first time and referred to Committee on Local Government and Elections.

March 15, 2007, amended, reported favorably — Do Pass.

March 20, 2007, read second time, amended, ordered engrossed.

C
o
p
y

EH 1731—LS 7143/DI 14+



Reprinted
March 21, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1731

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-22-8-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) This chapter applies only to
3 a purchase expected by the purchasing agent to be less than
4 ~~seventy-five thousand dollars (\$75,000)~~ **one hundred fifty thousand**
5 **dollars (\$150,000).**
6 (b) Purchase requirements may not be artificially divided so as to
7 constitute a small purchase under this chapter.
8 SECTION 2. IC 5-22-8-2 IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2007]: Sec. 2. (a) This section applies only if
10 the purchasing agent expects the purchase to be less than ~~twenty-five~~
11 ~~thousand dollars (\$25,000)~~ **fifty thousand dollars (\$50,000).**
12 (b) A purchasing agent may make a purchase under small purchase
13 policies established by the purchasing agency or under rules adopted
14 by the governmental body.
15 SECTION 3. IC 5-22-8-3 IS AMENDED TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) This section applies only if
17 the purchasing agent expects the purchase to be:

EH 1731—LS 7143/DI 14+



C
o
p
y

(1) at least ~~twenty-five thousand dollars (\$25,000);~~ **fifty thousand dollars (\$50,000);** and

(2) not more than ~~seventy-five thousand dollars (\$75,000);~~ **one hundred fifty thousand dollars (\$150,000).**

(b) A purchasing agent may purchase supplies under this section by inviting quotes from at least three (3) persons known to deal in the lines or classes of supplies to be purchased.

(c) The purchasing agent shall mail an invitation to quote to the persons described in subsection (b) at least seven (7) days before the time fixed for receiving quotes.

(d) If the purchasing agent receives a satisfactory quote, the purchasing agent shall award a contract to the lowest responsible and responsive offeror for each line ~~of~~ **or** class of supplies required.

(e) The purchasing agent may reject all quotes.

(f) If the purchasing agent does not receive a quote from a responsible and responsive offeror, the purchasing agent may purchase the supplies under IC 5-22-10-10.

SECTION 4. IC 5-22-9-1, AS AMENDED BY P.L.160-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. ~~(a) When a purchasing agent makes a written determination that the use of competitive sealed bidding is either not practicable or not advantageous to the governmental body, the purchasing agent may award a contract using the procedure provided by this chapter instead of competitive sealed bidding under IC 5-22-7.~~

~~(b) This subsection applies only to a purchasing agent in the executive branch. Notwithstanding subsection (a), and subject Subject~~ to the policies of the purchasing agency, a purchasing agent may award a contract using the procedure provided by this chapter.

SECTION 5. IC 5-22-9-9, AS AMENDED BY P.L.160-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals.

~~(b) Except as provided in subsection (c), in conducting discussions with an offeror, information derived from proposals submitted by competing offerors may not be disclosed.~~

~~(c) (b) This subsection applies only to a purchasing agency in the executive branch.~~ In conducting discussions with an offeror, information derived from proposals submitted by competing offerors may be used in discussion only if the identity of the offeror providing the information is not disclosed to others. The purchasing agency must provide equivalent information to all offerors with which the

C
o
p
y



purchasing agency chooses to have discussions.

SECTION 6. IC 36-1-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) Whenever a contract provides for the purchase, sale, or exchange of services, supplies, or equipment between or among Indiana governmental entities only, no notice by publication or posting is required.

(b) Whenever a contract provides for one (1) Indiana governmental entity to make a purchase for another, compliance by the one with the applicable statutes governing public bids constitutes compliance by the other.

(c) A governmental entity may make a purchase from any other governmental entity or under another governmental entity's referenced written contract if there is compliance with state purchasing law by the original purchasing unit.

(d) Two (2) or more governmental entities may procure together or with a nonprofit entity if the requirements of the public purchasing statutes are met.

SECTION 7. IC 36-1-12-4.7, AS AMENDED BY P.L.169-2006, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4.7. (a) This section applies whenever a public work project is estimated to cost:

(1) at least twenty-five thousand dollars (\$25,000) and less than ~~seventy-five thousand dollars (\$75,000)~~ **one hundred thousand dollars (\$100,000)** in:

(A) a consolidated city, ~~or~~ second class city, **or third class city with a population of fifteen thousand (15,000) or more;**

(B) a county containing a consolidated city or second class city; or

(C) a regional water or sewage district established under IC 13-26; or

(2) at least twenty-five thousand dollars (\$25,000) and less than fifty thousand dollars (\$50,000) in a political subdivision or agency not described in subdivision (1).

(b) The board must proceed under the following provisions:

(1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.

(2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received

C
o
p
y



shall be opened publicly and read aloud at the time and place designated and not before.

(3) The board shall award the contract for the public work to the lowest responsible and responsive quoter.

(4) The board may reject all quotes submitted.

SECTION 8. IC 36-1-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) This section applies whenever a public work project is estimated to cost less than ~~twenty-five thousand dollars (\$25,000).~~ **fifty thousand dollars (\$50,000).** Except as provided in subsection (g) for local boards of aviation commissioners and local airport authorities, if a contract is to be awarded, the board may proceed under section 4 of this chapter or under subsection (b) or (c).

(b) The board must proceed under the following provisions:

(1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes.

(2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.

(3) The board shall award the contract for the public work to the lowest responsible and responsive quoter.

(4) The board may reject all quotes submitted.

(5) If the board rejects all quotes under subdivision (4) of this section, the board may negotiate and enter into agreements for the work in the open market without inviting or receiving quotes if the board establishes in writing the reasons for rejecting the quotes.

(c) The board may not proceed under subsection (b) for the resurfacing (as defined in IC 8-14-2-1) of a road, street, or bridge, unless:

(1) the weight or volume of the materials in the project is capable of accurate measurement and verification; and

(2) the specifications define the geographic points at which the project begins and ends.

(d) For the purposes of this section, if contiguous sections of a road, street, or bridge are to be resurfaced in a calendar year, all of the work shall be considered to comprise a single public work project.

C
o
p
y



1 (e) The board may purchase or lease supplies in the manner
 2 provided in IC 5-22 and perform the public work by means of its own
 3 workforce without awarding a public work contract.

4 (f) Before the board may perform any work under this section by
 5 means of its own workforce, the political subdivision or agency must
 6 have a group of employees on its staff who are capable of performing
 7 the construction, maintenance, and repair applicable to that work.

8 (g) This subsection applies to local boards of aviation
 9 commissioners operating under IC 8-22-2 and local airport authorities
 10 operating under IC 8-22-3. If the contract is to be awarded by a board
 11 to which this subsection applies, or to a designee of the board under
 12 subsection (h), the board or its designee may proceed under section 4
 13 of this chapter or under the following provisions. The board or its
 14 designee may invite quotes from at least three (3) persons known to
 15 deal in the class of work proposed to be done by mailing the persons a
 16 copy of the plans and specifications for the work not less than seven (7)
 17 days before the time fixed for receiving quotes. If the board or its
 18 designee receives a satisfactory quote, the board or its designee shall
 19 award the contract to the lowest responsible and responsive quoter for
 20 the class of work required. The board or its designee may reject all
 21 quotes submitted and, if no valid quotes are received for the class of
 22 work, contract for the work without further invitations for quotes.

23 (h) The board may delegate its authority to award a contract for a
 24 public works project that is estimated to cost less than fifty thousand
 25 dollars (\$50,000) to the airport personnel in charge of airport public
 26 works projects.

27 **(i) Quotes for public works projects costing less than twenty-five**
 28 **thousand dollars (\$25,000) may be obtained by soliciting at least**
 29 **three (3) quotes by telephone or facsimile transmission. The seven**
 30 **(7) day waiting period required by subsection (b)(1) does not apply**
 31 **to quotes solicited under this subsection.**

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1731, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 12, after "entity" insert "**or under another governmental entity's referenced written contract**".

Page 3, line 24, delete "fifty".

Page 3, line 25, delete "(\$150,000)" and insert "**(\$100,000)**".

Page 4, line 9, delete "one hundred".

Page 4, line 10, delete "(\$150,000)." and insert "**(\$50,000)**".

and when so amended that said bill do pass.

(Reference is to HB 1731 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 9, nays 1.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1731 be amended to read as follows:

Page 3, line 17, delete "A formalized interlocal agreement".

Page 3, delete lines 18 through 19.

(Reference is to HB 1731 as printed February 20, 2007.)

BUCK

 SENATE MOTION

Madam President: I move that Senator Lawson C be added as cosponsor of Engrossed Senate Bill 1731.

LANANE

EH 1731—LS 7143/DI 14+



C
o
p
y

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred House Bill No. 1731, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 40, delete ".".

Page 2, line 40, reset in roman "only if the identity of the offeror providing".

Page 2, line 41, reset in roman "the information is not disclosed to others."

and when so amended that said bill do pass.

(Reference is to HB 1731 as reprinted February 24, 2007.)

LAWSON C, Chairperson

Committee Vote: Yeas 9, Nays 0.

 SENATE MOTION

Madam President: I move that House Bill 1731 be amended to read as follows:

Page 3, line 25, delete "or" and insert ",".

Page 3, line 25, after "class city" insert "**or third class city with a population of fifteen thousand (15,000) or more**".

(Reference is to EHB 1731 as printed March 16, 2007.)

LANANE

 SENATE MOTION

Madam President: I move that Engrossed House Bill 1731 be amended to read as follows:

Page 5, line 26, delete "Except for projects under subsection (g), quotes" and insert "**Quotes**".

(Reference is to EHB 1731 as printed March 16, 2007.)

YOUNG R MICHAEL

EH 1731—LS 7143/DI 14+



C
o
p
y